

The Gazette of India



EXTRAORDINARY

PART II—Section 2

PUBLISHED BY AUTHORITY

No. 30] NEW DELHI, FRIDAY, SEPTEMBER 6, 1957/BHADRA 15, 1879

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 6th September, 1957:—

Bill No. IV of 1957

A Bill further to amend the Forward Contracts (Regulation) Act, 1952.

Enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. This Act may be called the Forward Contracts (Regulation) Amendment Act, 1957.

Short title.

74 of 1952. 2. After section 9 of the Forward Contracts (Regulation) Act, 1952, the following section shall be inserted, namely:—

Insertion of new section 9A.

“9A. (1) A recognised association may make rules or amend any rules made by it to provide for all or any of the following matters, namely:—

Power of recognised association to make rules respecting grouping of members, restricting voting rights, etc., in special cases.

(a) the grouping of the members of the association according to functional or local interests, the reservation of seats on its governing body for members belonging to each group and appointment of members to such reserved seats—

(i) by election exclusively by the members belonging to the group concerned;

(ii) by election by all the members of the association;

(iii) by election by all the members of the association from among persons chosen by the members belonging to the group concerned for the purpose;

(b) the restriction of voting rights in respect of any matter placed before the association at any meeting to those

members only who, by reason of their functional or local interests, are actually interested in such matter;

(c) the regulation of voting rights in respect of any matter placed before the association at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the association;

(d) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the association;

(e) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b), (c) and (d).

(2) No rules of a recognised association made or amended in relation to any matter referred to in clauses (a) to (e) of sub-section (1) shall have effect until they have been approved by the Central Government and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956.

1 of 1956.

(3) Where, before the commencement of the Forward Contracts (Regulation) Amendment Act, 1957, any rules have been made or amended in relation to any matter referred to in clauses (a) to (e) of sub-section (1), the rules so made or amended shall not be deemed to be invalid or ever to have been invalid merely by reason of the fact that the rules so made or amended are repugnant to any of the provisions of the Companies Act, 1956."

1 of 1956.

Transitional provisions respecting recognised associations in certain cases.

3. Where any recognised association which has been granted an extension of time for holding its annual general meeting under the proviso to clause (c) of sub-section (1) of section 166 of the Companies Act, 1956, is desirous of making or amending rules in relation to the matters referred to in clause (a) of sub-section (1) of section 9A of the Forward Contracts (Regulation) Act, 1952, and reconstituting its governing body in accordance with such rules, and the Central Government, on an application made to it by the recognised association, is satisfied that it would not be possible for the association so to reconstitute its governing body within the extended time granted to it, the Central Government may, notwithstanding anything to the contrary contained in the Companies Act, 1956, extend the time within which the said annual general meeting shall be held by a further period not exceeding six months.

1 of 1956.

74 of 1952.

1 of 1956.

STATEMENT OF OBJECTS AND REASONS

The provisions contained in the Companies Act, 1956, which are designed to govern and regulate the affairs of companies in general, are unsuitable, in a large measure, in the case of the incorporated associations recognised under the Forward Contracts (Regulation) Act, 1952. Unlike other companies, an association granted recognition by the Central Government for purposes of forward trading is a group of persons whose functional interests are essentially diverse and even conflicting in several respects. It is, therefore, proposed to specifically empower such recognised associations, to make such provisions in their constitutions as would satisfy their requirements, by a suitable amendment of the Forward Contracts (Regulation) Act, which would override the relevant provisions contained in the Companies Act. The most important of such provisions, which has been existing in the constitutions of most associations concerned with the regulation and control of forward trading, is the provision for the reservation of seats on the Board of Directors of the associations for different panels of members representing different interests, so that all such interests may have a balanced representation on the Board. The other provisions relate to restricting the voting rights of members only to matters in which they are interested, restricting the right to appoint proxies and introducing the principle of one member—one vote irrespective of the share of the member in the paid-up equity capital. It is also proposed to empower the Central Government to extend the time within which an annual general meeting of a recognised association must be held, in order to facilitate reconstitution of a Board of Directors of the association on the basis of the provisions mentioned above.

NEW DELHI ;

N. KANUNGO.

The 2nd September, 1957.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The proposed section 9A sought to be inserted by clause 2 of the Bill empowers a recognised association to make rules in respect of certain matters specified therein. They relate to grouping of members, election of directors, regulation of voting rights etc. These are matters which are ordinarily provided for in the articles of association of a company. As these rules would be inconsistent with the provisions of the Companies Act, 1936, a specific provision has been made in sub-section (2) of section 9A that if such rules are approved by the Central Government and published in the official gazette, they shall have effect, notwithstanding anything contained in the Companies Act. Having regard to the nature of functions performed by recognised associations in forward markets, such rules are essential. There would, however, be different rules for different associations and it would not be possible to provide for such matters in the enactment itself. In these circumstances, the rule making power is of a normal character.

S. N. MUKERJEE,
Secretary.